

energy and money in order to fight the regulatory process once it has taken effect?

So our amendment would specify very clearly the same process that has applied to EPA and OSHA for the last 14 years has been supported by the Senate unanimously when SBREFA was adopted; that the bureau must consider the economic effect that these rules will have on the cost of credit for small businesses. This is critical because, as we know, and according to the National Federation of Independent of Business, NFIB, which is the largest voice for small business in this country, 42 percent of small business owners use a personal credit card for business purposes.

So it is absolutely vital that small business interests are fully considered before the bureau issues regulations on consumer credit cards, so that however well intentioned those rules and regulations are, we want to make sure the bureau does not inadvertently cut off or suspend vital small business credit sources, especially during these fragile economic times when, as a recent Federal Deposit Insurance Company survey noted, banks posted their sharpest decline in lending since 1942.

I want to add that there are some fundamental misconceptions about the pending amendment. I would like to address them because I think it is critically important that we sort through the misperceptions and mischaracterizations and get to the truth of what this amendment is all about.

First and foremost, this is a tried-and-true proposal. It has been the law for the last 14 years for EPA and OSHA.

Some, including the Treasury Department, have argued that my amendment would compromise the independence of the new bureau by holding it captive the very businesses it is set to regulate. This argument is flawed for many reasons. Given how many months—in most cases, years—it takes Federal agencies to promulgate new rules under the notice and comment process, how does 60 days built into the process undermine key consumer protections the underlying legislation seeks to achieve? I really don't understand exactly what the Treasury Department is so concerned about, let alone afraid of.

If there are going to be adverse economic effects on small firms, our Nation's primary job creators—at this key juncture when unemployment is at virtually 10 percent and 15 million Americans are unemployed, and we are depending on small businesses to be the job generators—wouldn't we want to know what effect any rules and regulations this bureau is about to promulgate would have on small businesses? Why not know that ahead of time, set up a small business review panel, which has been done in so many instances in the past and worked effectively and successfully, to ascertain exactly what might affect small businesses' well-

being so that we can address it at the forefront of the regulatory process and not afterward? That is what this is all about. Wouldn't we want to know before an agency proposes a rule as opposed to afterward? That is what we do with EPA as well as OSHA.

Secondly, it is the bureau itself—not SBA, not OMB or any other agency within government—that is overseeing the small business advisory panel process as well as the report and recommendations. The bureau does this with the input of small business stakeholders that the bureau, in consultation with the independent SBA Office of Advocacy, chooses to include. So the bureau has flexibility in this process.

The bureau gets to choose what small businesses participate, what information it shares with the panel, and it oversees the process and the writing of the report. I ask my colleagues again, how would the bureau be controlled by the regulating community, unless the bureau allows itself to be controlled?

I went back to look at the SBA Office of Advocacy to determine how they view this process and how well it has worked. They said: Invariably, the participation of these panels provides extremely valuable information on the real-world impacts and compliance costs of agency proposals.

The purpose of the panel process is threefold. This is from the independent office within the Small Business Administration. The Office of Advocacy has authored their own independent assessment, separate and apart from the SBA, to determine what works and what does not work. First, the panel process ensures that small entities that would be affected by a regulatory proposal are consulted about the pending action and offered an opportunity to provide information on its potential effects. Secondly, a panel can develop, consider, and recommend less burdensome alternatives to a regulatory proposal when warranted. Finally, the rulemaking agency has the benefit of input from both real-world small entities and analysis prior to publication. Wouldn't we want to know the real-world effect? Certainly, we would. We can act theoretically when we pass legislation that becomes law, but ultimately, how is it going to affect the real world? What is it going to do to small businesses on Main Street?

Now I am hearing from the Treasury Department that they simply don't want to know the truth. It is too invasive. It is taking too much time. They want to put all these regulations by this new bureau within the act, this Consumer Financial Protection Bureau that essentially comprises more than 300 pages out of this 1,500-page bill, that is obviously going to have a host of rules and regulations. They are saying: No, it is too invasive. We can't take that kind of time. It might hold us up.

We are saying a 60-day process. It is a 60-day review process. This panel would be convened if the bureau itself

determines that, yes, in fact, some of the rules they may propose will have an effect on small businesses. So then they convene a panel. They choose the particular stakeholders across the board within the agencies and with the small business community. They convene for 60 days. Within 60 days, the bureau completes the report and submits it to the bureau. It contains recommendations that are advisory, not mandatory. Then the bureau considers these recommendations as it proposes its rules and regulations. I think that is a pretty logical process. I can't understand why the Treasury Department would be so adamantly opposed to this very logical, straightforward approach that has already been utilized time and again for EPA and OSHA. It is mystifying to me.

The attorneys at the Treasury Department say it could take 6 months to do these panels. Our amendment would adhere to the Regulatory Flexibility Act requirements that specify 60 days. How the bureau handles that 60-day report is obviously up to them. There is list after list of panels where these review panels have been used time and again under OSHA and EPA. It has been very effective—understandably so. We want to make sure these rules work.

Why wouldn't the Treasury Department want to know whether these rules and regulations will work for small businesses? Thirty million small businesses in this country generate two-thirds of all the net new jobs each year. We are surely depending on them to create the jobs in this jobless recovery. I've said it before and I will say it again: A jobless recovery is not a true recovery. We need jobs. But we are saying: No, we don't want to bother with this 60-day review panel. We don't want to bother with that because it could interfere with our process. We want to put everything on a fast track. We will figure out later whether it works for small businesses.

That is unacceptable and objectionable. That is why there is so much anger and frustration across America. Go up and down Main Streets and see what is happening to small businesses. Now we are saying, with this new Consumer Financial Protection Bureau, that we don't want to take the time to consider anything that would have an effect on small businesses. We will find out about it later. Let them pay the price of whether they can survive. Let them pay the price as to whether they can afford these regulations, that it makes sense, that it is workable, or to fight the regulatory process.

Anybody been through that process? We know what it is all about. It is time-consuming, complex, and bureaucratic. It is simply unaffordable for most small businesses. Ultimately, they will have to close their doors or they will not hire or they are going to lay off people. That is what the net result of all this will be. Yet we have had a demonstrable approach with this by